

CODIFIED ORDINANCES OF BROOKLYN

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CODIFIED ORDINANCES OF BROOKLYN

PART ONE - ADMINISTRATIVE CODE

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Chap. 101. Codified Ordinances.

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CHAPTER 101 Codified Ordinances

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101.03	Rules of construction.	101.08	Severability.
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CROSS REFERENCES

See sectional histories for similar State law

Statute of limitations on prosecutions - see Ohio R.C.
718.06; GEN. OFF. 501.06

Codification in book form - see Ohio R.C. 731.23

Imprisonment until fine and costs are paid - see Ohio R.C.
1905.30, 2947.14

Citation issuance for minor misdemeanors - see Ohio R.C.
2935.26 et seq.

Ordinances and resolutions - see ADM. Ch. 123

Rules of construction for offenses and penalties - see
GEN. OFF. 501.04

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Brooklyn, Ohio, 2002 for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances. (ORC 1.01)

(b) All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless another definition is provided or the context otherwise requires:

- (a) "And" may be read "or", and "or" may be read "and", if the sense requires it. (ORC 1.02(F))
- (b) "Another" when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property. (ORC 1.02(B))
- (c) "Bond" includes an undertaking and "undertaking" includes a bond. (ORC 1.02(D), (E))
- (d) "Council" means the legislative authority of the Municipality.
- (e) "County" means Cuyahoga County.
- (f) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent or employee.
- (g) "Land" or "real estate" includes rights and easements of an incorporeal nature. (ORC 701.01(F))
- (h) "Municipality" or ACity@ means the municipality of Brooklyn, Ohio.
- (i) "Oath" includes affirmation and "swear" includes affirm. (ORC 1.59(B))
- (j) "Owner", when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
- (k) "Person" includes an individual, corporation, business trust, estate, trust, partnership and association. (ORC 1.59(C))
- (l) "Premises", as applied to property, includes land and buildings.
- (m) "Property" means real and personal property. (ORC 1.59(E))
"Personal property" includes all property except real.
"Real property" includes lands, tenements and hereditaments.
- (n) "Public authority" includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.

- (o) "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.
- (p) "Registered mail" includes certified mail and "certified mail" includes registered mail. (ORC 1.02(G))
- (q) "Rule" includes regulation. (ORC 1.59(F))
- (r) "Sidewalk" means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.
- (s) "This State" or "the State" means the State of Ohio. (ORC 1.59(G))
- (t) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
- (u) "Tenant" or "occupant", as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.
- (v) "Whoever" includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private. (ORC 1.02(A))
- (w) "Written" or "in writing" includes any representation of words, letters, symbols or figures. This provision does not affect any law relating to signatures. (ORC 1.59(J))

101.03 RULES OF CONSTRUCTION.

(a) Common and Technical Usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly. (ORC 1.42)

(b) Singular and Plural; Gender; Tense. As used in the Codified Ordinances, unless the context otherwise requires:

- (1) The singular includes the plural, and the plural includes the singular.
 - (2) Words of one gender include the other genders.
 - (3) Words in the present tense include the future.
- (ORC 1.43)

(c) Calendar; Computation of Time.

- (1) Definitions.
 - A. "Week" means seven consecutive days.
 - B. "Year" means twelve consecutive months.(ORC 1.44)
- (2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month. (ORC 1.45)

- (3) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday.
When a public office, in which an act required by law is to be performed, is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday.
(ORC 1.14)
- (4) When legislation is to take effect or become operative from and after a day named, no part of that day shall be included.
(ORC 1.15)
- (5) In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(d) Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(e) Joint Authority. All words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority or inconsistent with State statute or Charter provisions.

(f) Exceptions. The rules of construction shall not apply to any law which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(a) The repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving clause therein.
(ORC 1.57)

(b) An ordinance which is re-enacted or amended is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance.
(ORC 1.54)

(c) The re-enactment, amendment or repeal of an ordinance does not, except as provided in subsection (d) hereof:

- (1) Affect the prior operation of the ordinance or any prior action taken thereunder;

- (2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred thereunder;
- (3) Affect any violation thereof or penalty, forfeiture or punishment incurred in respect thereto, prior to the amendment or repeal;
- (4) Affect any investigation, proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the ordinance had not been repealed or amended.

(d) If the penalty, forfeiture or punishment for any offense is reduced by a re-enactment or amendment of an ordinance, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the ordinance as amended.
(ORC 1.58)

101.05 CONSTRUCTION OF SECTION REFERENCES.

(a) A reference to any portion of the Codified Ordinances applies to all re-enactments or amendments thereof.
(ORC 1.55)

(b) If a section refers to a series of numbers or letters, the first and the last numbers or letters are included.
(ORC 1.56)

(c) Wherever in a penalty section reference is made to a violation of a series of sections or of subsections of a section, such reference shall be construed to mean a violation of any section or subsection included in such reference.

References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances.
(ORC 1.23)

101.06 CONFLICTING PROVISIONS.

(a) If there is a conflict between figures and words in expressing a number, the words govern.
(ORC 1.46)

(b) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.
(ORC 1.51)

(c) (1) If ordinances enacted at different meetings of Council are irreconcilable, the ordinance latest in date of enactment prevails.

- (2) If amendments to the same ordinance are enacted at different meetings of Council, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.
(ORC 1.52)

101.07 DETERMINATION OF LEGISLATIVE INTENT.

- (a) In enacting an ordinance, it is presumed that:
 - (1) Compliance with the constitutions of the State and of the United States is intended;
 - (2) The entire ordinance is intended to be effective;
 - (3) A just and reasonable result is intended;
 - (4) A result feasible of execution is intended.
(ORC 1.47)
- (b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective.
(ORC 1.48)
- (c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:
 - (1) The object sought to be attained;
 - (2) The circumstances under which the ordinance was enacted;
 - (3) The legislative history;
 - (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
 - (5) The consequences of a particular construction;
 - (6) The administrative construction of the ordinance.
(ORC 1.49)

101.08 SEVERABILITY.

If any provision of a section of the Codified Ordinances or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.
(ORC 1.50)

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

CHAPTER 103

Official Standards

EDITOR=S NOTE: There are no sections in Chapter 103. This chapter has been established to provide a place for cross references and future legislation.

CHAPTER 105

Open Meetings

105.01	Legislative intent.	105.05	Notice of meetings.
105.02	Liberal construction.	105.06	Executive sessions.
105.03	Definitions.	105.07	Violations.
105.04	Open meetings; minutes.		

CROSS REFERENCES

State provisions - see Ohio R.C. 121.22

105.01 LEGISLATIVE INTENT.

It is the intent of the Council of the City of Brooklyn that this chapter have the same application and effect on the City of Brooklyn as would Ohio R.C. 121.22 if the City of Brooklyn were not a charter municipality.
(Ord. 1978-20. Passed 9-25-78.)

105.02 LIBERAL CONSTRUCTION.

This chapter shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings, unless the subject matter is specifically excepted by law.
(Ord. 1978-20. Passed 9-25-78.)

105.03 DEFINITIONS.

As used in this section:

- (a) APublic body@ means any legislative authority or board, commission, committee, agency, authority or similar decision-making body of the City of Brooklyn.
- (b) AMeeting@ means any pre-arranged discussion of the public business of the public body by a majority of its members.
(Ord. 1978-20. Passed 9-25-78.)

105.04 OPEN MEETINGS; MINUTES.

(a) All meetings of any public body are declared to be public meetings open to the public at all times.

(b) The minutes of a regular or special meeting of any such public body shall be promptly recorded and open to public inspection. The minutes need only reflect the general subject matter of discussion in executive sessions authorized under Section 105.06.
(Ord. 1978-20. Passed 9-25-78.)

105.05 NOTICE OF MEETINGS.

(a) Every public body shall, by rule, establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place and purpose of the meeting.

(b) The rule shall provide that any person may, upon request and payment of a reasonable fee, obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.
(Ord. 1978-20. Passed 9-25-78.)

105.06 EXECUTIVE SESSIONS.

The members of a public body may hold an executive session only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

- (a) Unless the public employee, official or licensee, requests a public hearing, to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official or the investigation of charges or complaints against a public employee, official or licensee. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of his official duties or for his removal from office.
- (b)
 - (1) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair advantage to a person whose personal, private interest is adverse to the general public interest. No member shall use this division as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.
 - (2) If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease or otherwise dispose of any right, title or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bonafide purchasers, lessees, or transferees of the property concerned.
- (c) Conferences with an attorney for the public body, concerning disputes involving the public body that are subject of pending or imminent court action;
- (d) Preparing for, conduction or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

- (e) Matters required to be kept confidential by federal law or rules or state statutes.
- (f) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing or avoiding prosecution for a violation of the law.
(Ord. 1978-20. Passed 9-25-78.)

105.07 VIOLATIONS.

(a) A resolution, rule or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in Section 105.06 and held in compliance with this chapter.

(b) Upon proof of a violation or threatened violation of this chapter in an action brought by any person, any court of competent jurisdiction shall issue an injunction to compel the members of the public body to comply with its provisions.

(c) A member who knowingly violates an injunction issued pursuant to this chapter may be removed from office by an action brought in any court of competent jurisdiction for that purpose by the prosecuting attorney, attorney general or other official empowered to bring such actions.
(Ord. 1978-20. Passed 9-25-78.)

TITLE THREE - Legislative

Chap. 121. Council.

Chap. 123. Ordinances and Resolutions.

CHAPTER 121 Council

121.01 Order of business for regularly scheduled meetings.

121.02 Mayor to appoint committees.

121.03 President pro tempore.

121.04 Tapes of meetings.

121.05 Assistant Clerk of Council.

CROSS REFERENCES

Composition and term - see CHTR. Art. III, Sec. 1

Qualifications - see CHTR. Art. III, Sec. 2

Removal - see CHTR. Art. III, Sec. 3

Vacancies - see CHTR. Art. III, Sec. 4

Salaries - see CHTR. Art. III, Sec. 5

Organization - see CHTR. Art. III, Sec. 6

Meetings - see CHTR. Art. III, Sec. 7

121.01 ORDER OF BUSINESS FOR REGULARLY SCHEDULED MEETINGS.

(a) Council hereby determines that regularly scheduled meetings of the Council shall be held on the second and fourth Mondays of each month at 7:30 p.m. in the Council Chambers of the City Hall.

(b) It is determined that the order of business at the regularly scheduled Council Meetings shall be as follows, commencing February 8, 1988.

- (1) Call to order,
- (2) Pledge of Allegiance,
- (3) Reading of Brief Agenda,
- (4) Comments from the audience, limited to 30 minutes,
- (5) Approval of minutes,
- (6) Reports of Councilpersons,
- (7) Reports from the Mayor,
- (8) Presentation of legislation, and
- (9) Adjournment.

(Ord. 1988-5. Passed 1-25-88.)

121.02 MAYOR TO APPOINT COMMITTEES.

(a) It is hereby determined that it would be in the best interest of the City if committees of Council were created, as needed, and members of Council were appointed to serve on these committees.

(b) The Mayor is hereby authorized to create committees of Council and appoint members of Council to serve on these committees, as he deems necessary.
(Ord. 1983-34. Passed 9-26-83.)

121.03 PRESIDENT PRO TEMPORE.

The Members of Council at their organizational meeting, or as soon as practicable thereafter, shall elect from their own number a President Pro Tempore to serve until the first meeting in January next after his election, who shall perform such duties as are imposed upon the President of Council during the temporary absence of the President of Council; provided, however, that in the event the Office of President of Council becomes vacant such vacancy shall be filled in the manner provided in Article III, Section 6 of the Charter.
(Ord. 1986-57. Passed 12-22-86.)

121.04 TAPES OF MEETINGS.

(a) In addition to the duties usually and customarily performed by the Clerk of Council, he shall be responsible for tape recording all regular and special meetings of Council, other than Executive Sessions.

(b) The Clerk shall be responsible for the verbatim transcription of all regular and special meetings of Council provided, however, that the recitation of the Pledge of Allegiance may be eliminated and the taking of votes may be summarized.

(c) The Clerk shall have custody of the tapes and they shall be stored, under his direct supervision, in a fireproof safe provided for that purpose.

(d) The Clerk shall provide the Mayor and each member of Council with a verbatim transcript of the minutes within a reasonable time following each meeting.

(e) The Clerk shall, pursuant to a request from any member of Council made at least twenty-four hours prior thereto, produce the tapes for replay; provided, however, that such replay must be in the presence of the Clerk or his designee.
(Ord. 1987-2. Passed 1-5-87.)

121.05 ASSISTANT CLERK OF COUNCIL.

There is hereby created the position of Assistant Clerk of Council whose duties shall be to handle correspondence, communications, records and other similar related duties for the Council of the City of Brooklyn. Shorthand and typing qualifications shall be a requisite for employment in this position.
(Ord. 1974-65. Passed 12-19-74.)

CHAPTER 123
Ordinances and Resolutions

**123.01 Adoption of technical codes
by incorporation by reference.**

CROSS REFERENCES

General provisions - see CHTR. Art. III, Sec. 8

Initiative and referendum - see CHTR. Art. VII, Sec. 1

**123.01 ADOPTION OF TECHNICAL CODES BY INCORPORATION
BY REFERENCE.**

Council may adopt by ordinance model or standard codes and any supplements or amendments thereto prepared and published by any public or private agency on such matters as fire prevention, building construction, housing, electrical wiring, plumbing, heating, ventilating, air conditioning, piping, boiler and other similar topics by reference to the date and source of the code without reproducing it at length in the ordinance. However, if Council desires to modify, add to or eliminate from any such code or amendment any section or part thereof, such addition, modification or omission shall be clearly stated in the adopting ordinance. In all such cases in which such a code or amendment is adopted by reference, publication of the code or amendment at length, in the adopting ordinance by the Municipality, shall not be required. However, copies of all such codes including all amendments thereto shall be kept in the office of the Clerk of Council for reference and inspection by the public during regular office hours and additional copies shall be available for sale at a reasonable price.

(Ord. 1979-27. Passed 9-10-79.)

TITLE FIVE - Administrative

- Chap. 131. Mayor.
- Chap. 133. Director of Law.
- Chap. 135. Director of Finance.
- Chap. 137. Director of Public Safety.
- Chap. 139. Director of Public Service.
- Chap. 141. Police Department.
- Chap. 143. Fire Department.
- Chap. 145. Building Department.
- Chap. 147. Department of Recreation.
- Chap. 148. Domestic Abuse Commission.
- Chap. 149. Employees Generally.

CHAPTER 131 Mayor

131.01 Safety Director.
131.02 Expense account.

131.03 Administrative assistant.

CROSS REFERENCES

- Term - see CHTR. Art. IV, Sec. 1
- Judicial powers - see CHTR. Art. IV, Sec. 2
- Veto powers - see CHTR. Art. IV, Sec. 3
- Election upon vacancy - see CHTR. Art. IV, Sec. 4
- Executive powers - see CHTR. Art. IV, Sec. 5

131.01 SAFETY DIRECTOR.

Pursuant to the requirement of the City Charter, Article IV, Section 1, the Council of the City of Brooklyn hereby consents and gives its approval to allow the office of the Mayor to serve and be compensated for serving as the Safety Director of Brooklyn, Ohio.
(Ord. 2000-2. Passed 1-24-00.)

131.02 EXPENSE ACCOUNT.

The office of the Mayor of the City of Brooklyn is hereby provided with an expense account commencing March 1, 1997 in an amount not to exceed six hundred dollars (\$600.00) per month, said sum may be expended by the Mayor in the performance of his mayoral duties.
(Ord. 1997-16. Passed 2-24-97.)

131.03 ADMINISTRATIVE ASSISTANT.

There is hereby created the position of Administrative Assistant to the Mayor in the City of Brooklyn. The individual holding this position among other duties and responsibilities of the office, shall supervise and coordinate all activities relating to personnel of the City including time study reports, vacation schedules, and prepare standards and procedures where possible for the performance of duties within certain job classifications; coordinate all county, state and federal programs within the City of Brooklyn; perform research and reports when requested thereof; assist in the handling of all communications to generate improved relations with area communities, and facilitate the operation of the City. The above describes the duties of the Administrative Assistant, but does not restrict the office to the aforementioned duties.

(Ord. 1976-77. Passed 12-13-76.)

CHAPTER 133
Director of Law

**133.01 Notification to Council
of lawsuit.**

133.02 Prosecutor.

CROSS REFERENCES

Appointment; duties - see CHTR. Art. V, Sec. 2
Prosecutor - see CHTR. Art. V, Sec. 2(a)

133.01 NOTIFICATION TO COUNCIL OF LAWSUIT.

The Law Director shall advise Council at the next regular Council meeting after he receives official notice that a lawsuit, in which the City of Brooklyn is a real party in interest, has been filed or concluded.
(Ord. 1998-5. Passed 2-9-98.)

133.02 PROSECUTOR.

(a) Commencing January 1, 1980, there is hereby created the position of Prosecutor in the Department of Law. The Prosecutor will be appointed at the discretion of the Mayor; the Director of Law may serve as Prosecutor.

(b) Whoever is appointed as Prosecutor shall be a licensed attorney with a minimum of three years experience.
(Ord. 1979-18. Passed 6-25-79.)

CHAPTER 135
Director of Finance

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| 135.01 Payment of rape victim medical expenses.
135.02 Clerk Personnel and Records. | 135.03 Adoption of investment policy.
135.04 Interest on investments. |
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CROSS REFERENCES
Appointment; duties - see CHTR. Art. V, Sec. 3

135.01 PAYMENT OF RAPE VICTIM MEDICAL EXPENSES.

Upon the concurrence of the Chief of Police, the Director of Law and the Finance Director, any bills for medical expenses incurred by a victim of rape which occurred within the Municipality of Brooklyn shall be paid promptly upon their presentation.
(Ord. 1976-8. Passed 3-8-76.)

135.02 CLERK PERSONNEL AND RECORDS.

There is hereby created the position of Clerk Personnel and Records, within the Department of Finance, who shall be responsible for wages, employment, insurance, hospitalization, workers= compensation and other related matters involving personnel of the City. (Ord. 1979-52. Passed 12-10-79.)

135.03 ADOPTION OF INVESTMENT POLICY.

Council hereby adopts the Investment Policy attached to Ordinance 1999-3 as Exhibit A to establish the scope of and objectives to be attained, the standard of prudence to be used by the Director of Finance, the list of approved security broker/dealers and financial institutions, the authorized investments, the maximum maturities, the provisions for safekeeping and custody as well as the prohibited investment practices in addition to any other prohibitions in the Revised Code. (Ord. 1999-3. Passed 1-25-99.)

135.04 INTEREST ON INVESTMENTS.

All interests earned on investments by the City shall be designated as General Fund receipts. (Ord. 1990-10. Passed 3-12-90.)

CHAPTER 137

Director of Public Safety

EDITOR=S NOTE: Pursuant to Section 131.01, the Mayor serves as the City Safety Director.

137.01 Police and fire protection outside City limits.

137.02 Commissioning of private police.

CROSS REFERENCES
Appointment; duties - see CHTR. Art. V, Sec. 6

137.01 POLICE AND FIRE PROTECTION OUTSIDE CITY LIMITS.

(a) In accordance with the provisions of Senate Bill 98, effective October 16, 1980, Council grants authority to the Police Department and Fire Department of said City to render police and fire protection to other political subdivisions.

(b) The Mayor, Director of Public Safety, the Chief of Police, or any one of them, are hereby empowered to order that police protection be provided to another political subdivision without a contract.

(c) The Mayor, Director of Public Safety, the Chief of Fire, or any one of them, are hereby empowered to order that fire protection be provided to another political subdivision without a contract. (Ord. 1980-21. Passed 11-10-80.)

137.02 COMMISSIONING OF PRIVATE POLICE.

(a) Authority to issue Private Police Commissions. The Director of Public Safety, in pursuance with Ohio R.C. 737.05, is hereby authorized to commission private policemen and private policewomen not in the classified services of the City of Brooklyn, under such rules and regulations as Council shall grant.

(b) Rules and Regulations. The Director of Public Safety is hereby authorized to prescribe rules and regulations, and the uniform which shall be worn by such private policemen and private policewomen wherever and whenever their services are conducted. Such private policemen and private policewomen shall each give bond by a bonding company authorized by law in the State of Ohio in the sum of one thousand dollars (\$1,000) to the satisfaction of the Director of Public Safety and the Director of Law, and shall pay an annual fee in the sum of twenty-five dollars (\$25.00).

(c) Uniforms.

- (1) Any person, firm or corporation desiring to provide special police, watchmen, or detective service, either for itself or for hire to others, shall use no distinctive uniform, cap, badge or buttons, to be worn by such person or any employees of such person, firm or corporation, engaged for such purpose, until the form, design and color thereof shall have been first submitted to and approved by the Director of Public Safety, and a record thereof sufficient to identify the users thereof shall have been made by said Director of Public Safety. The Director of Public Safety shall prescribe such uniform, badge, and/or other distinguishing uniform marks for such private policeman or private policewoman as he may see fit in order to distinguish such private policeman or policewoman from regular police officers of the Division of Police, Department of Public Safety, of the City of Brooklyn, Ohio.
- (2) No person not a member of the Police or Fire Department shall wear a uniform, cap, badge or buttons similar to, or in imitation of the official uniform, cap, badge or buttons at the time in use by the members of the Police and Fire Departments of the City.

(d) Duration of Commission; Weapons. No commission as such private policeman and/or private policewoman shall be valid for a greater period of time than one year from the date of issuance, and no person shall be commissioned as such private policeman and/or private policewoman who is not a citizen of the United States of America. The issuance of a private police commission shall not of itself constitute authority to carry firearms. Such private police must each secure from the Clerk of the Common Pleas Court of Cuyahoga County a concealed weapons bond in the sum of one thousand dollars (\$1,000) in order to carry arms while on duty as provided for herein and in accordance with Ohio R.C. 2923.01.

(e) Application for Commission. No person shall be commissioned as private policeman and/or private policewoman unless he is licensed to do so. An applicant for such commission shall:

- (1) Be at least twenty-one years of age or over, an American citizen, or have declared his intention to become a citizen.
- (2) Be of sound physique, with good eyesight and not subject to vertigo, heart trouble, or any other infirmity of body or mind, which might render him unfit for the safe carrying out of the duties of such commission. Each applicant shall supply an affidavit to the Director of Public Safety for his application for a commission that he is free from any and all of the infirmities mentioned in this section.
- (3) Be able to read, write and speak the English language.
- (4) Be clean in dress and person, of good moral character and not addicted to the use of intoxicating liquors and drugs.

- (5) Produce on forms to be provided by the Director of Public Safety of the City, affidavits of his good character from two reputable citizens of the City or the County of Cuyahoga, who have known him personally, and a further testimonial on a form provided for that purpose, from his last employer, unless, in the estimation of the said Safety Director sufficient reason is given for its omission.
- (6) Fill out, upon a form to be provided by the Director of Public Safety, a statement giving his full name, residence, places of residence for five years previous to moving to his present address, age, height, color of eyes and hair, place of birth, length of time he has resided in the County of Cuyahoga, whether a citizen of the United States, place of previous employment, whether single or married, whether he has ever been arrested or convicted of a felony or misdemeanor, whether he has been summoned to court, whether his driving license has ever been revoked, and if so, for what cause, which statement shall be signed and sworn to by the applicant, and filed with the said Safety Director as a permanent record. The Safety Director is hereby authorized and empowered to establish additional rules and regulations covering the issuance of such commission of private policeman or private policewoman, not inconsistent herewith, as may be necessary and reasonable.

(f) Photograph of Applicant; Police Check. Each applicant for a commission as private policeman or private policewoman must file with his application three unretouched photographs of himself or herself, in such position as the Safety Director may direct, taken within the thirty days preceding the filing of his application. Photographs to be of a size which may be easily attached to his commission, one of which shall be attached to the commission when issued, the others shall be filed with the application in the office of the Safety Director. The photograph shall be so attached to the commission that it cannot be removed and another photograph substituted without detection. Where the application for a commission is denied, two copies of the photograph shall be returned to the applicant by the Safety Director. Each commissioned private policeman or private policewoman shall, upon demand of an inspector of licenses, or a police officer, exhibit his license and photograph for inspection. All applications for such commission as private policeman and/or private policewoman shall be notarized, and failure to list arrests and/or any other information desired by the Safety Director, would be considered falsifying the application and applicant would be subject to arrest. All applicants for special police work as such private policemen and private policewomen must be fingerprinted, and the Director of Public Safety, through his Division of Police, shall cause a complete record check made of the applicant's character, or obtain any other information as he may desire.

(g) Identification. An identification card, with photograph attached, as outlined in subsection (f) hereof, shall be carried by such private policeman and/or private policewoman at all times while on duty in the City, in order to identify him or her, to our Division of Police, showing that he has been qualified to the satisfaction of the Director of Public Safety.
(Ord. 1967-19. Passed 4-24-67.)

CHAPTER 139
Director of Public Service

139.01 Tree planting program.**139.02 Recycling program.**

CROSS REFERENCES

Municipal forestry program - see S.U. & P.S. Ch. 967

139.01 TREE PLANTING PROGRAM.

It is hereby determined that a tree shall be required on the tree lawn of each residential lot within the City, provided it does not impede traffic or visibility on any street or public place. The type and species of the tree to be planted shall be determined by the Director of Public Service. The tree shall be purchased and installed by the City.
(Ord. 1986-32. Passed 5-28-86.)

139.02 RECYCLING PROGRAM.

(a) There is hereby created within the Department of Public Service the part-time position of Recycling Clerk-Coordinator. The Clerk-Coordinator=s responsibilities shall include, but not be limited to: typing and preparation of all correspondence and statistical reports as required in the ODNR grant and by supervisors; maintenance of files and records relative to the City=s recycling program; responding to resident inquiries concerning recycling; coordinate volunteer assignments, print materials, programs, distributions and activities relating to recycling with appropriate City personnel; and maintaining a log of recycling pickups.
(Ord. 1990-06. Passed 2-12-90.)

- (b) (1) There are hereby created within the Department of Public Service a maximum of four full-time and four part-time/on call positions of recycling crewpersons whose responsibilities shall include, but not be limited to, the following: safe operation of City-owned recycling equipment and vehicles; proper placement of recycling bins after they have been emptied; proper loading, unloading, and separation of recyclable materials; proper clean-up of broken glass and spillage of recyclables, curbside or enroute; sorting recyclable materials, if necessary; driving recyclables to market; returning all receipts from market to general foreman; statistical reporting and dispensing warnings, when required; and any other duties relating to recycling.
- (2) Recycling crewpersons shall maintain a commercial driver=s license and any other necessary certifications required by Federal, State and local regulations. Recycling crewpersons shall be subordinate to the General Foreman and Director of Public Service.

- (3) Upon successful completion of a six month probation period, full-time recycling crewpersons shall be entitled to annual clothing allowance as established by Council. After successful completion of a six month probationary period, part-time recycling crewpersons shall be furnished with one complete uniform complement at the City=s expense. Protective gear shall be furnished, at the City=s expense, to all full-time and part-time recycling crewpersons.
(Ord. 1990-07. Passed 2-12-90.)

CHAPTER 141

Police Department

- 141.01 Personnel.**
141.02 Auxiliary police unit.
141.03 Salary reduction pick-up of employee contributions to the Police and Fireman=s Disability and Pension Fund.

CROSS REFERENCES

Assistance of State Criminal Bureau - see Ohio R.C. 109.51 et seq.
 Police protection contracts - see Ohio R.C. 505.441, 737.04
 Recovered property and disposition - see Ohio R.C. 737.29 et seq.
 Police and Fireman=s Disability and Pension Fund - see Ohio R.C.
 Ch. 742

141.01 PERSONNEL.

(a) The Division of Police within the Department of Public Safety of the City of Brooklyn shall not exceed forty men, inclusive of all ranks, as its full complement of personnel.

(b) There may be a total of five sergeants in the Division of Police.
 (Ord. 1998-46. Passed 9-14-98.)

141.02 AUXILIARY POLICE UNIT.

(a) There is hereby created and established in the Division of Police a body to be known as AThe Auxiliary Police Unit@ who shall have as their head the Director of Public Safety.

(b) The Director of Public Safety is hereby authorized to prescribe rules and regulations and the uniform which shall be worn by the members of such Auxiliary Police Unit, and such other rules and regulations for the organization, training, administration, control and conduct of said Auxiliary Police Unit.

- (c) (1) Members of the Auxiliary Police Unit are not eligible for membership in any Police Relief and Pension Fund provided for regular members of the Division of Police.
 (2) Members of the Auxiliary Police Unit shall not be in the classified service of the Municipality.

(d) The Chief of Police, as provided in Ohio R.C. 737.06, shall have exclusive control over stationing and transfer of all Auxiliary Police Officers under such general rules and regulations as the Director of Public Safety prescribed.
(Ord. 1967-18. Passed 4-24-67.)

**141.03 SALARY REDUCTION PICK-UP OF EMPLOYEE CONTRIBUTIONS
TO THE POLICE AND FIREMAN=S DISABILITY AND PENSION
FUND.**

(a) The City=s method of payment of salary and the provisions of fringe benefits to members of the Division of Police, who are participants in the Police and Fireman=s Disability and Pension Fund of Ohio, are hereby modified as follows in order to provide for a salary reduction pickup of contributions to the Police and Fireman=s Disability and Pension Fund of Ohio.

(b) The total annual salary and salary per pay period for each such employee shall be the salary otherwise payable under the applicable contracts and applicable City policies. Such total annual salary and salary per pay period of each employee shall be payable by the City in two parts: (1) deferred salary and (2) cash salary. An employee=s deferred salary shall be equal to that percentage of said employee=s total annual salary or salary per pay period which is required from time to time by the Police and Fireman=s Disability of Pension Fund of Ohio to be paid as an employee and shall be paid by the City to the Police and Fireman=s Disability and Pension Fund on behalf of said employee as a pick-up and in lieu of the Police and Fireman=s Disability and Pension Fund of Ohio contribution otherwise payable by said employee. An employee=s cash salary shall be equal to said employee=s total annual salary or salary per pay period less the amount of the pick-up for said employee and shall be payable, subject to applicable payroll deductions, to said employee. The City shall compute and remit its employer contributions to the Police and Fireman=s Disability and Pension Fund of Ohio based upon an employee=s total annual salary or salary per pay period, including the aforesaid pick-up. The City=s total combined expenditures of such employees= total salaries otherwise payable under their contracts and applicable City policies (including pick-up amounts) and its employer contributions to the Police and Fireman=s Disability and Pension Fund shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

(c) The pick-up shall be included in the employee=s total annual salary for the purpose of computing daily rate of pay, for determining paid salary adjustments to be made due to absence, or for any similar purpose.

(d) Any pick-up by the City of an employee=s contributions to the Police and Fireman=s Disability and Pension Fund shall be mandatory for all of the employees previously described who are members of the Police and Fireman=s Disability and Pension Fund of Ohio. No such member shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Police and Fireman=s Disability and Pension Fund of Ohio.

(e) The City shall fulfill its income tax reporting and withholding responsibilities for each employee in such manner as is required by applicable federal, state and local laws and regulations as they may exist at the time of such reporting and withholding, it being the City's understanding that federal and Ohio income tax laws and regulations presently require it to report as an employee's gross income his total annual salary less the amount of the pick-up while applicable municipal income tax laws required it to report as an employee's gross income his total annual salary including the amount of the pick-up.

(f) The Finance Director, or his designee, is hereby directed to take all acts necessary and appropriate to initiate implementation of the provisions of this section, including but not limited to making applications to the board administering the Police and Fireman's Disability and Pension Fund of Ohio program to determine the requirements of that board in connection with such pick-up plan.

(g) The pick-up plan shall apply to all eligible employees who qualify under this section and the plan shall commence once the Internal Revenue Service has ruled that the City's plan meets the qualifications of Section 414(h)(2) of the Internal Revenue Code and Revenue Regulations 81-35 and 81-36.

(Ord. 1986-44. Passed 12-8-86.)

CHAPTER 143 Fire Department

143.01	Ambulance service.	143.05	Pick-up of employee
143.02	EMS service charges.		contributions to the Police and
143.03	Shift Fire Safety Inspector.		Fireman=s Disability and
143.04	Secretary to the Chief.		Pension Fund.
		143.06	Emergency medical technician
			training.

CROSS REFERENCES

Fire protection contracts - see Ohio R.C. 307.05, 505.44, 717.02
 Schooling, buildings and equipment - see Ohio R.C. 715.05, 737.23
 et seq.
 Gas masks for firemen; requirements - see Ohio R.C. 3737.31

143.01 AMBULANCE SERVICE.

(a) The ambulance provided and maintained by the City of Brooklyn for life saving and support services on an emergency basis shall be operated by members of the Brooklyn Fire Department and shall be under the direct control of the Chief of Fire.

(b) All members of the Department of Fire shall undertake paramedic training and be duly certified by the State of Ohio. Individuals shall be selected for the paramedic training by the Fire Chief.

(c) Ambulance service shall be provided in emergency situations, including but not limited to rescue, preservation of life and treatment of injuries whether occurring by accident or illness. The Police Department shall furnish such necessary additional assistance in emergency ambulance calls as may be necessary.
 (Ord. 1978-11. Passed 5-8-78.)

143.02 EMS SERVICE CHARGES.

(a) Effective January 1, 2001, the following fee structure, per person, per call, for services rendered by the City of Brooklyn EMS for all nonresidents transported to a medical facility shall be:

Basic Life Support	\$400.00
Advanced Life Support	\$450.00

(Ord. 2000-68. Passed 9-11-00.)

(b) Any governmental agency, calling for mutual aid assistance, shall be exempt from this fee if said governmental agency does not charge a similar fee for similar services. If the City of Brooklyn EMS responds to a mutual aid call for any agency charging for EMS, the City of Brooklyn will endeavor to collect the fee charged by the requesting agency, from that agency.

(c) Effective January 1, 2001, the Finance Director is hereby authorized to establish a billing procedure at the rate of:

Basic Life Support \$400.00

Advanced Life Support \$450.00

(Ord. 2000-68. Passed 9-11-00.)

(d) Any monies collected pursuant to this section shall be deposited into the General Fund. (Ord. 1996-60. Passed 12-9-96.)

143.03 SHIFT FIRE SAFETY INSPECTOR.

(a) Three positions of Shift Fire Safety Inspectors in the Division of Fire shall be created and designated by the Chief of the Division of Fire.

(b) Upon certification from the State of Ohio, and while serving as a Shift Fire Safety Inspector, said Shift Fire Safety Inspectors shall be compensated at the rate of \$1,200 per annum, in addition to their other compensation.

(Ord. 2000-6. Passed 2-14-00.)

143.04 SECRETARY TO THE CHIEF.

There is hereby created the position of Secretary to the Chief of the Division of Fire who shall be responsible for all office procedures; including, but not limited to, receiving phone calls, typing all correspondence, recording and filing all monthly and annual reports, payroll, petty cash, recording fire prevention inspections and supplies maintenance.

(Ord. 1990-05. Passed 2-12-90.)

143.05 PICK-UP OF EMPLOYEE CONTRIBUTIONS TO THE POLICE AND FIREMAN=S DISABILITY AND PENSION FUND.

(a) The City=s method of payment of salary and the provisions of fringe benefits to members of the Division of Fire, who are participants in the Police and Fireman=s Disability and Pension Fund of Ohio, are hereby modified as follows in order to provide for a salary reduction pickup of contributions to the Police and Fireman=s Disability and Pension Fund of Ohio.

(b) The total annual salary and salary per pay period for each such employee shall be the salary otherwise payable under the applicable contracts and applicable City policies. Such total annual salary and salary per pay period of each employee shall be payable by the City in two parts: (1) deferred salary and (2) cash salary. An employee=s deferred salary shall be equal to that percentage of said employee=s total annual salary or salary per pay period which is required from time to time by the Police and Fireman=s Disability and Pension Fund of Ohio to be paid as an employee and shall be paid by the City to the Police and Fireman=s Disability and Pension Fund on behalf of said employee as a pick-up and in lieu of the Police and Fireman=s Disability and Pension Fund of Ohio contribution otherwise payable by said employee. An employee=s cash salary shall be equal to said employee=s total annual salary or salary per pay period less the amount of the pick-up for said employee and shall be payable, subject to applicable payroll deductions, to said employee. The City shall compute and remit its employer contributions to the Police and Fireman=s Disability and Pension Fund of Ohio based upon an employee=s total annual salary or salary per pay period, including the aforesaid pick-up. The City=s total combined expenditures of such employees= total salaries otherwise payable under their contracts and applicable City policies (including pick-up amounts) and its employer contributions to the Police and Fireman=s Disability and Pension Fund shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

(c) The pick-up shall be included in the employee=s total annual salary for the purpose of computing daily rate of pay, for determining paid salary adjustments to be made due to absence, or for any similar purpose.

(d) Any pick-up by the City of an employee=s contributions to the Police and Fireman=s Disability and Pension Fund shall be mandatory for all of the employees previously described who are members of the Police and Fireman=s Disability and Pension Fund of Ohio. No such member shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Police and Fireman=s Disability and Pension Fund of Ohio.

(e) The City shall fulfill its income tax reporting and withholding responsibilities for each employee in such manner as is required by applicable federal, state and local laws and regulations as they may exist at the time of such reporting and withholding, it being the City=s understanding that federal and Ohio income tax laws and regulations presently require it to report as an employee=s gross income his total annual salary less the amount of the pick-up while applicable municipal income tax laws required it to report as an employee=s gross income his total annual salary including the amount of the pick-up.

(f) The Finance Director, or his designee, is hereby directed to take all acts necessary and appropriate to initiate implementation of the provisions of this section, including but not limited to making applications to the board administering the Police and Fireman=s Disability and Pension Fund of Ohio program to determine the requirements of that board in connection with such pick-up plan.

(g) The pick-up plan shall apply to all eligible employees who qualify under this section and the plan shall commence once the Internal Revenue Service has ruled that the City=s plan meets the qualifications of Section 414(h)(2) of the Internal Revenue Code and Revenue Regulations 81-35 and 81-36.

(Ord. 1986-40. Passed 10-27-86.)

143.06 EMERGENCY MEDICAL TECHNICIAN TRAINING.

All police officers and firefighters of the City of Brooklyn shall be required to complete successfully Emergency Medical Technician training prior to the expiration of their probationary periods. (Ord. 1979-2. Passed 1-8-79.)

CHAPTER 145
Building Department

145.01 Chief Building Official.
145.02 Assistant Building Commissioner.

145.03 Plumbing and Electrical Inspector; Class I and Class III Back-up Inspector.

CROSS REFERENCES

Authority to provide for the inspection of buildings - see Ohio R.C. 715.26

145.01 CHIEF BUILDING OFFICIAL.

(a) There is hereby established the position of Chief Building Official for the City of Brooklyn, Ohio.

(b) The person selected as the Chief Building Official must have Class I and Class III certification. (Ord. 1990-15. Passed 3-26-90.)

145.02 ASSISTANT BUILDING COMMISSIONER.

There is hereby created the part-time position of Assistant Building Commissioner to provide the Plumbing, Electrical Class I and Class III qualification needed to maintain State Certification of the Building Department.
(Ord. 1996-27. Passed 5-13-96.)

145.03 PLUMBING AND ELECTRICAL INSPECTOR; CLASS I AND CLASS III BACK-UP INSPECTOR.

(a) There is hereby created the position of Plumbing and Electrical Inspector and Class I and Class II Back-Up Inspector qualified to maintain State Certification of the Building Department of the City of Brooklyn.
(Ord. 1994-110. Passed 12-12-94.)

(b) The Plumbing and Electrical Inspector/Back-Up Class I and Class II Inspector position shall receive such compensation as Council shall provide from time to time.

CHAPTER 147
Department of Recreation

147.01 Department established.

147.02 Positions.

147.01 DEPARTMENT ESTABLISHED.

There is hereby created a Department of Recreation; said Department shall be under the overall supervision of a Recreation Commissioner. The Commissioner shall be a part-time position and shall be appointed by the Mayor and confirmed by Council.
(Ord. 1974-34. Passed 9-9-74.)

147.02 POSITIONS.

Council may establish and amend from time to time such full-time and part-time positions both within and outside the classified civil service as are necessary to implement the recreation program.

CHAPTER 148

Domestic Abuse Commission

148.01	Established.	148.04	Meetings.
148.02	Composition.	148.05	Duties.
148.03	Secretary.	148.06	Reports.

CROSS REFERENCES
Domestic violence - see GEN. OFF. 537.14

148.01 ESTABLISHED.

There is hereby established a Domestic Abuse Commission. The general purpose of the council shall be as follows:

- (a) To effectuate coordination between agencies, departments and the courts with victims of domestic violence and abuse; and
- (b) To promote effective prevention, intervention and treatment techniques which will be developed based upon research and data collection; and
- (c) To improve response to domestic violence and abuse so as to reduce incidents thereof. (Ord. 2001-1. Passed 2-12-01.)

148.02 COMPOSITION.

The Domestic Abuse Commission shall consist of nine members, seven appointed by the Mayor and approved by Council. Council recommends that the appointments to the Domestic Abuse Commission be representative of the following: Mayor=s Office, Brooklyn Police Department, Member of Law Department, Brooklyn School Board Member (appointed by the School Board), Member of Parma Municipal Court, Member of Deaconess Hospital, and two citizen members of the City of Brooklyn. One member of City Council, elected by the members of Council, shall also be on the Commission. Representatives should be at the policy making level of their respective organization. The terms of the office of each member shall be three years. (Ord. 2001-1. Passed 2-12-01.)

148.03 SECRETARY.

The Clerk of City Council shall be the ex-officio secretary of the Commission and shall be responsible for providing secretarial assistance to the council. (Ord. 2001-1. Passed 2-12-01.)

148.04 MEETINGS.

The meetings of the Commission shall be scheduled not less than once every two months and shall be open to the public. (Ord. 2001-1. Passed 2-12-01.)

148.05 DUTIES.

The duties of the Commission shall be as follows:

- (a) Examine ways in which agencies and departments in Brooklyn and the courts respond to domestic violence and abuse in order to improve that response;
 - (b) Improve the cooperation and coordination among all participants in the justice system who deal with domestic violence and abuse;
 - (c) Make recommendations to Council, agencies, departments, the courts and others regarding improving the response to domestic violence and abuse;
 - (d) Examine and review legislation that relates to domestic violence and abuse and recommend appropriate action to the City Council=s Public Safety Committee.
 - (e) Form task forces, committees to assist in planning, policy, goal and priority recommendations, and such other functions as the Council deems necessary;
 - (f) Respond to related matters referred to the Commission by City Council; and
 - (g) Subject to the approval of the City Council and Mayor, request information, services, facilities and other assistance from City departments for the purpose of furthering the objectives of the Commission.
- (Ord. 2001-1. Passed 2-12-01.)

148.06 REPORTS.

The Commission shall report to the City Council on its progress each year and shall indicate proposed goals for the following year. Should the Commission conclude that there is no further work for the Commission, it shall report to Council and request that the Commission be disbanded.

(Ord. 2001-1. Passed 2-12-01.)

CHAPTER 149 Employees Generally

149.01	Vacations.	149.09	Overtime compensation.
149.02	Holidays.	149.10	Sick leave credit.
149.03	Funeral/bereavement leave.	149.11	Life insurance.
149.04	Personal leave days.	149.12	Maternity leave.
149.05	Attendance bonus.	149.13	Military service.
149.06	Longevity pay.	149.14	P.E.R.S. pick-up.
149.07	Jury duty leave.	149.15	Conflict of interest.
149.08	Injury leave.		

CROSS REFERENCES

Workers= Compensation - see Ohio Const., Art. II, Sec. 35; Ohio
R.C. Ch. 4123
Vacation credit - see Ohio R.C. 9.44
Ethics - see Ohio R.C. Ch. 102

149.01 VACATIONS.

(a) Each full-time employee, not being a member of a bargaining unit, shall earn and be entitled to paid vacation in accordance with the following schedule:

<u>Length of Service</u>		<u>Weeks</u>
After one year	Two	
After five years		Three
After ten years	Four	
After fifteen years		Five
After twenty-five years		Six

(b) Effective January 1, 2001, all vacation which will be qualified for on the employee=s anniversary date of the new year shall be booked and available for employee use as of January 1 of the new year. Usual separation pay adjustment procedures shall be followed should employment be terminated prior to the employee=s anniversary date.

(c) Vacation shall be taken during each current year, provided, however, that the City may permit an employee to carry over one week=s vacation leave to the following year upon written request and upon written approval by the Mayor. Any remaining unused vacation time shall be forfeited. (Ord. 2000-36. Passed 6-12-00.)

149.02 HOLIDAYS.

(a) Each and every full-time employee of the City of Brooklyn, not covered by a bargaining unit, shall be granted the following paid holidays:

- (1) New Year=s Day;
- (2) Martin Luther King Day;
- (3) Presidents= Day (starting in 2001);
- (4) Good Friday;
- (5) Memorial Day;
- (6) July 4th;
- (7) Labor Day;
- (8) Columbus Day;
- (9) Thanksgiving Day;
- (10) Day after Thanksgiving Day;
- (11) Veterans= Day;
- (12) Christmas Day.

(b) Whenever it is necessary for an employee to work on a holiday, the employee shall be credited to equivalent compensatory time off, at a time approved by the Mayor. Holidays off shall not be cumulative and shall be taken within the calendar year.
(Ord. 2000-40. Passed 6-12-00.)

149.03 FUNERAL/BEREAVEMENT LEAVE.

(a) Each and every full-time employee of the City of Brooklyn, not participating in a bargaining unit, shall be granted days off with pay (not to be deducted from the employee=s sick leave) for the purposes of grieving and/or arranging and/or attending the funeral of a member of the employee=s immediate family as follows:

- (1) Seven days for spouse, children, stepchildren, parents and grandparents;
- (2) Four days off for brother, sister, parent-in law.

(b) In all cases where more time is required, the employee shall make application, in writing, to the employer, who may advance sufficient vacation days or compensatory time due to cover the situation.
(Ord. 2000-38. Passed 6-12-00.)

149.04 PERSONAL LEAVE DAYS.

(a) Effective January 1, 2000, all full-time employees of the City of Brooklyn, not covered by a bargaining unit, shall, in addition to all other benefits be granted two personal leave days each year, which are to be taken within the year earned. Personal leave days not taken during said year shall be forfeited.

(b) Personal leave days shall only be taken with the advance approval of the Mayor.
(Ord. 2000-39. Passed 6-12-00.)

149.05 ATTENDANCE BONUS.

Effective January 1, 2000, all full-time employees, unless otherwise provided by contract, shall be eligible for an attendance bonus. The employer shall pay a bonus of one hundred twenty-five dollars (\$125.00) to any employee who has perfect attendance during the preceding one-quarter calendar year. The four quarter year terms are defined as January 1 thru March 31, April 1 thru June 30, July 1 thru September 30 and October 1 thru December 31. Vacation days, holidays, personal days, compensatory days, Family Medical Leave, funeral leave, jury duty, injury leave, sick leave used immediately following an on-duty injury, but in no event beyond 90 days beyond the occurrence thereof, or related to pregnancy, shall not count as days absent for the purpose of this bonus. (Ord. 2000-37. Passed 6-12-00.)

149.06 LONGEVITY PAY.

(a) In addition to the regular compensation received, salary and wages, employees shall receive compensation at the rate of two hundred fifty dollars (\$250.00) for every five years of full time service.

(b) Such additional longevity compensation shall not be paid to any employee who does not complete the full year employment because of discharge for cause or voluntary resignation.

(c) Such longevity compensation is to be paid in one lump sum less authorized payroll deductions on the last pay of the employee=s anniversary month.

(d) Additional compensation for longevity hereinbefore provided, shall not be paid to elected officials, the Law Director, Civil Service Commission members, Safety Director, Voluntary (Auxiliary) Firemen, School Guards, and part-time and/or seasonal employee of any department, Recreation Commissioner, or any other member of any other Board or Commission for which compensation is now or may hereinafter be provided.
(Ord. 2000-41. Passed 6-12-00.)

149.07 JURY DUTY LEAVE.

Any full-time, City employee who is called for jury duty, either Federal, County or Municipal, shall suffer no loss of pay, less any compensation received from such court for jury duty, as provided for in the Ohio Revised Code.
(Ord. 1985-45. Passed 5-28-85.)

149.08 INJURY LEAVE.

(a) When an employee of the City of Brooklyn is injured in the line of duty during the course and scope of his employment he shall be eligible for a paid leave not to exceed ninety calendar days providing that as conditions precedent to receiving any benefits under this section the employee shall:

- (1) File for Workers= Compensation and sign a Waiver assigning to the Employer those sums of money (temporary total benefits) he would ordinarily receive as his weekly compensation as determined by law for those number of weeks he receives benefits under this section.
- (2) Submit to a physical examination, when requested by the Employer, by a physician appointed and paid by the Employer, which results in the physician=s certification that the Employee is unable to work due to the injury.

(b) When an Employee is still disabled at the end of this ninety day period, the leave may, at the Employer=s sole discretion, be extended for an additional ninety calendar day period.

(c) All of the employee=s fringe benefits shall continue without interruption.
(Ord. 1985-15. Passed 5-28-85.)

149.09 OVERTIME COMPENSATION.

- (a) (1) Unless otherwise provided by contract or ordinance, all full-time employees, excluding the Director of Public Service, Police Chief and Fire Chief, for work performed in the excess of eight hours per day, when approved by the department head, shall be compensated, at the employee=s election, (the employee must advise the employer of his-her election quarterly prior to April 1, July 1, October 1, and January 1) either at the rate of one and one-half times the employee=s regular hourly rate for all overtime, or compensatory time off computed at the same rate, to be taken within six months as approved by the department head.
- (2) Whenever approved by the Mayor, employees called in to work or appearing in court on behalf of the employer when the employee is not on duty, shall be compensated not less than two hours at the time and one-half rate subject to the election method in which compensation is to be received as set forth within subsection (a)(1) hereof.

(b) Employees classified in the following positions are eligible for overtime compensation as provided in subsection (a):

Assistant Clerk of Council	Asst. Coordinator of Senior Services
Secretary to the Mayor	Secretary to the Chief of Police
Administrative Asst. to the Mayor	Secretary to the Building Inspector
Asst. Accounting Clerks-	Telephone Operator/Typist/Receptionist
Typists (2)	Chief Clerk
Deputy Director of Finance	Skate Rental Clerk
Bookkeeper-Typist	Mayor=s Court Clerk
Clerk Personnel and Records	Custodial Employees
Coordinator of Senior Services	

(Ord. 1988-45. Passed 3-28-88.)

149.10 SICK LEAVE CREDIT.

(a) A full-time employee may, after ten or more years of service with the City, elect at the time of his or her retirement from active service with the City, to be paid in cash for one-half the value of his or her accrued but unused sick leave credit.

(b) Such payment shall be based on the employee=s rate of pay at the time of retirement.
(Ord. 1997-24. Passed 3-24-97.)

149.11 LIFE INSURANCE.

All full-time employees of the City of Brooklyn, not participating in a collective bargaining unit, shall receive during their term of employment, twelve thousand dollars (\$12,000) term life insurance, premiums paid by the City.

(Ord. 1991-81. Passed 6-24-91.)

149.12 MATERNITY LEAVE.

(a) Employees of the City, not covered by a bargaining unit, who become pregnant, and who indicate on their application for such leave their intent to return to work at a future date, shall be granted maternity leave for up to six months.

(Ord. 1991-82. Passed 6-24-91.)

(b) Applicant for maternity leave shall be in writing, and shall contain a statement of the expected date of birth, the date on which the leave of absence is to commence, and the intended date of return to service. Such written application shall be submitted to the Mayor at least sixty days in advance of the beginning date of the leave.

(c) Employees shall be entitled to the use of vacation and sick leave pay during the maternity leave. The use of such leave with pay shall be requested on the application for leave. Upon exhaustion of all available/earned vacation and sick leave, maternity leave will revert to leave without pay status.

(Ord. 1987-10. Passed 2-23-87.)

149.13 MILITARY SERVICE.

Commencing with the effective date of this section, there is hereby established a policy of maintaining the wages, benefits and other terms and conditions of employment for all full-time Municipal employees of the City of Brooklyn, Ohio when he/she is called into active military service. The Director of Finance is authorized to continue paying their base wages during their time of military service, less, however, his/her military wages received during such service.

(Ord. 2001-39. Passed 9-24-01.)

149.14 P.E.R.S. PICK-UP.

(a) The City=s method of payment of salary and the provisions of fringe benefits to members of the P.E.R.S. employees not covered by a bargaining unit, who are participants in the P.E.R.S. fund of Ohio, are hereby modified as follows, in order to provide for a salary reduction pickup of contributions to the Public Employees Retirement System Fund.

(b) The total annual salary and salary per pay period for each such employee shall be the salary otherwise payable under the applicable contracts and applicable City policies. Such total annual salary and salary per pay period of each employee shall be payable by the City in two parts: (1) deferred salary and (2) cash salary. An employee=s deferred salary shall be equal to that percentage of said employee=s total annual salary or salary per pay period which is required from time to time by the Public Employees Retirement System Fund of Ohio to be paid as an employee and shall be paid by the City to the Public Employees Retirement System Fund on behalf of said employee as a pick-up and in lieu of the Public Employees Retirement System Fund of Ohio contribution otherwise payable by said employee. An employee=s cash salary shall be equal to said employee=s total annual salary or salary per pay period less the amount of the pick-up for said employee and shall be payable, subject to applicable payroll deductions, to said employee. The City shall compute and remit its employer contributions to the Public Employees Retirement System Fund of Ohio based upon an employee=s total annual salary or salary per pay period, including the aforesaid pick-up. The City=s total combined expenditures of such employee=s total salaries otherwise payable under their contracts and applicable City policies (including pick-up amounts) and its employer contributions to the Public Employees Retirement System of Ohio shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

(c) The pick-up shall be included in the employee=s total annual salary for the purpose of computing daily rate of pay, for determining paid salary adjustments to be made due to absence, or for any similar purpose.

(d) Any pick-up by the City of an employee=s contributions to the Public Employees Retirement System of Ohio shall be mandatory for all of the employees previously described who are members of Public Employees Retirement System of Ohio not covered by a bargaining unit. No such member shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the City to Public Employees Retirement System of Ohio.

(e) The City shall fulfill its income tax reporting and withholding responsibilities for each employee in such manner as is required by applicable federal, state and local laws and regulations as they may exist at the time of such reporting and withholding, it being the City=s understanding of the pick-up while applicable municipal income tax laws required it to report as an employee=s gross income his total annual salary including the amount of the pick-up.

(f) The Finance Director, or his designee, is hereby directed to take all acts necessary and appropriate to initiate implementation of the provisions of this section, including but not limited to making applications to the Board administering the Public Employees Retirement System of Ohio program to determine the requirements of that board in connection with such pick-up plan.

(g) The pick-up plan shall apply to all eligible employees who qualify under this section and the plan shall commence once the Internal Revenue Services has ruled that the City=s plan meets the qualifications of Section 414(h)(2) of the Internal Revenue Code and Revenue Regulations 81-35 and 81-36.

(Ord. 1987-11. Passed 2-23-87.)

149.15 CONFLICT OF INTEREST.

No member of Council, the Mayor or other public official or public employee of the City, whether paid or unpaid, shall engage in any business or transaction or have a financial or personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or which would tend to impair his independence of judgement or action in the performance of his official duties, without first making a public disclosure thereof. Personal interest, as distinguished from financial interest, includes an interest arising from blood, adoption, guardianship or marriage or close business or political association.

Specific conflicts of interest are enumerated herein for the guidance of all public officials and public employees:

- (a) Holding, engaging in or accepting private employment or rendering services for or on behalf of private interests where such employment or service is incompatible with the proper discharge of the official public duties of the official or employee or which would tend to impair the independence of judgement or action in the performance of the official duties of the public official or public employee.
- (b) Disclose, without appropriate authorization, any information acquired by the public official or public employee in the course of his official duties which is confidential because of statutory or ordinance provisions, or when clearly designated as confidential to him when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is clearly necessary to the proper conduct of government business, or use such information to advance the financial or private interest of the public official or public employee or others.

- (c) Solicit, receive, accept or agree to receive or accept or use or authorize the use of the authority or influence of his office or employment to secure anything of value or the promise or offer of anything of value for or in connection with his public service or public employment including, but not limited to, any gift, service, loan, gratuity, compensation, favor, thing or promise from any person, partnership, trust, business trust, corporation or association which to the knowledge of the public official or public employee is interested, directly or indirectly, in any manner whatsoever in business dealings with the City or that may tend to manifest an influence upon the public official or employee in the proper discharge of public duties; nor shall any public official or employee grant in the discharge of public duties any improper favor, service or thing of value.
- (d) The following pertains only to those employed in the practice of law: Engage in the practice of law or represent or otherwise appear in behalf of a person, partnership, trust, business trust, corporation or association before any court or administrative agency in which the City is a party except on behalf of the City as an official or employee; or volunteer opinion evidence against the interests of the City in any litigation or proceeding in which the City is a party; or accept a retainer or other compensation that is contingent upon a specific action by a City agency, including Council, administrative department, division or office, board or commission; or appear before any board, commission or other public body of the City except in the performance of public obligations or official duties.
 - The provisions of this subsection (d) shall not prohibit:
 - (1) An appearance at or participation by a public official or employee before any department, division, office, board, commission or other City agency in the discharge of his duties as such public officer or employee and without private compensation for such appearance or participation, including appearance or participation on behalf of constituents as a representative of the electorate.
 - (2) An appearance at or participation by a public official or employee, on his own behalf, or on behalf of a partnership, trust, business trust, corporation, association or business in which he is a proprietor, partner, officer or employee before an agency of the City of which he is not a member with respect to a matter which is not in conflict with duties as such official or employee of the City.
- (e) Acting, directly or indirectly, as attorney, agent, broker or employee or in any other representative capacity on behalf of any private person, partnership, trust, business trust, corporation or association interested, directly or indirectly, in any manner whatsoever in any contract, work or service, or the sale or acquisitions by the City of any property, the cost of which is payable by City funds or to the City, or, directly or indirectly, be interested in the profits of any contract, work or service with the City or in the sale or acquisition by the City of any property, the cost of which is payable by City funds or to the City. No official or employee of the City shall, directly or indirectly, have any interest other than his fixed compensation and reimbursable expenses in any expenditures of funds by the City. A public official or employee shall not be deemed interested in any contract, work or service, or the sale or acquisition by the City of any property, or the profits of any contract, work or service, or the sale or acquisition by the City of any property unless such is approved, authorized, awarded or entered into by the public official or public employee in his official capacity.

- (f) Within one year after termination of public service or employment, no public official or employee shall represent a client or act in a representative capacity or accept private employment or receive private compensation for services, whether as attorney, agent, broker or employee with respect to any matter, case, proceeding, application, determination, issue or question in which he personally participated through decision, approval, disapproval, recommendation, the rendering of advice, investigation or other substantial exercise of administrative discretion or which was under his charge during the period of his service as such official or employee.
- (g) Use of public position for personal gain.
- (h) Holding (possession of) investments which interfere with or tend to interfere with the proper discharge of public duty. This shall include participation in transactions as a public representative with a person, partnership, trust, business trust, corporation or association in which the public official or employee has a direct or indirect financial or other personal interest.
- (i) Personal interest in legislation to the extent that private interest takes precedence over public interest or duty.
- (j) Entering into contracts or other conduct of business by a person, partnership, trust, business trust, corporation or association in which the public official or employee has a controlling or other substantial financial interest and when the public official or employee can influence such contract or business because of his public position. A Substantial financial interest@ includes any of the following interests in a business entity: proprietor, member of a partnership, officer or director of a corporation or association, trustee of a trust or a shareholder in a corporation whose shares are not obtainable on a recognized public stock exchange.
- (k) Soliciting employment with a person, partnership, trust, business trust, corporation or association doing business with the City over which the public official or employee had some control in his official capacity within one year of the termination of public service.
- (l) Promising any person appointment to any municipal position as a reward for any political activity.

Whoever knowingly violates any provision of this section is guilty of a misdemeanor of the first degree. (Ord. 1994-94. Passed 10-24-94.)

TITLE SEVEN - Judicial
Chap. 171. Mayor=s Court.

CHAPTER 171
Mayor's Court

EDITOR'S NOTE: The Mayor has jurisdiction to hear and determine any prosecution for the violation of a Municipal ordinance, and has jurisdiction in all criminal causes involving moving traffic violations occurring on State highways located within the corporate limits, subject to the right of the defendant to trial by jury and before an impartial magistrate.

Ohio R.C. 2945.17 provides that an accused has a right to be tried by a jury at any trial in any court for the violation of any Ohio statute or of any Municipal ordinance, except in cases in which the penalty involved does not exceed a fine of one hundred dollars (\$100.00). Ohio R.C. 2937.08 and Criminal Rule 23(A) provide that if the court in which a defendant is charged with an offense is not a court of record (the Mayor's Court), and the charge is such that a right to a jury trial exists, such matter shall not be tried before him and shall be transferred to a court of record in the County if the defendant:

- (a) Does not waive his right to trial by jury in a serious offense case for which the penalty established by laws includes confinement for more than six months, or
 - (b) Demands a jury trial in a petty offense case in which the penalty prescribed is a fine greater than one hundred dollars (\$100.00) and/or imprisonment for not more than six months. "Such demand must be in writing and filed with the clerk of court not less than ten days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial, whichever is later. Failure to demand a jury trial as provided in this subdivision is a complete waiver of the right thereto."
- In Ward v. Village of Monroeville, Ohio, 93 S. Ct. 80 (1972), the United States Supreme Court held that where the mayor before whom the defendant was compelled to stand trial was responsible for municipal finances and the mayor's court provided a substantial portion of municipal revenues, defendant was denied a trial before a disinterested and impartial magistrate as guaranteed by the due process clause of the United States Constitution.

The Supreme Court of Ohio has adopted the "Ohio Traffic Rules" which prescribe the procedure to be followed in the Mayor's Court in traffic cases. Rule 9(A) thereof states the jury demand shall be made pursuant to Criminal Rule 23 referred to above. Rule 9(B) sets forth the conditions under which the Mayor may hear a traffic case incorporating therein the holding in Ward v. Village of Monroeville as further interpreted in State, ex rel. Brockman v. Procter, 35 Ohio St. 2d 79 (1973): "Where, in a mayor's court, a defendant is entitled to a jury trial and a jury demand is made pursuant to Criminal Rule 23, the Mayor shall transfer the case pursuant to subdivision (C). If a jury demand is not made pursuant to Criminal Rule 23, and (or?) the defendant waives his right to jury trial in writing, a mayor may try the case if (1) his compensation as a judge is not directly dependent upon criminal case convictions, or (2) he is not the chief executive and administrative officer of the municipality and as such responsible for the financial condition of the municipality. Guilty and no contest pleas may be taken by any mayor including mayors whose compensation as a judge is directly dependent upon criminal case convictions and mayors who as chief executive and administrative officer of the municipality are responsible for the financial condition of the municipality."

The procedure for transferring a case to a court of record is set forth in Rule 9(C): "Where a transfer is required, the mayor's court shall make a written order directing the defendant to appear at the transferee court, continuing the same bail, if any, and making appearance before the transferee court a condition of bail, if any. Upon transfer, the mayor's court shall transmit to the clerk of the transferee court the ticket and all other papers in the case, and any bail taken in the case. Upon receipt of such papers the clerk of the transferee court shall set the case for trial and shall notify the defendant by ordinary mail of his trial date."

Rule 13 provides that a court shall establish a traffic violation bureau and specifies certain restrictions as to the designated offenses and schedule of fines to be accepted as waiver payment in lieu of court appearance.

171.01 Magistrate=s compensation.

171.02 Mayor=s Court Clerk.

CROSS REFERENCES

Disposition of fines and costs - see Ohio R.C. 733.40

Mayor's powers and duties - see Ohio R.C. 1905.20 et seq.

Trial - see Ohio R.C. Ch. 2938

Notification to Director of liquor law convictions - see Ohio R.C. 4301.991

Record of traffic violations - see Ohio R.C. 4513.37

171.01 MAGISTRATE=S COMPENSATION.

The compensation to be paid to the Brooklyn Mayor=s Court Magistrate shall be a fixed annual salary as established by Council from time to time, payable bi-weekly.
(Ord. 1998-27. Passed 6-8-98.)

171.02 MAYOR=S COURT CLERK.

There is hereby created the position of a Mayor=s Court Clerk who shall perform secretarial, filing and other routine clerical functions in the administration of the Mayor=s Court.
(Ord. 1974-69. Passed 12-19-74.)

**TITLE NINE - Taxation
Chap. 181. Income Tax.**

**CHAPTER 181
Income Tax**

181.01	Purpose of levy of income tax.	181.09	Unpaid taxes recoverable as other debts.
181.02	Definitions.	181.091	Refund taxes erroneously paid.
181.03	Rate and income taxable.	181.092	Amounts of less than one dollar.
181.031	Effective date.	181.10	Brooklyn resident subject to income tax in other municipality.
181.04	Method of determination.	181.11	Disbursement of funds collected.
181.041	Sales made in the City.	181.12	Duty to receive tax imposed.
181.042	Total allocation.	181.121	Duty to enforce collection.
181.043	Rentals.	181.122	Authority to make and enforce regulations.
181.044	Operating loss carry forward.	181.123	Authority to arrange installment payments.
181.045	Employee business expenses.	181.124	Authority to determine amount of tax due.
181.05	Sources of income not taxed.	181.125	Authority to make investigations.
181.06	When return required to be made.	181.126	Authority to compel production of records.
181.061	Form and content of return.	181.127	Refusal to produce records.
181.062	Extension of time for filing returns.	181.128	Confidential nature of information obtained.
181.063	Consolidated returns.	181.129	Taxpayer required to retain records.
181.064	Amended returns.	181.1210	Authority to contract for central collection facilities.
181.07	Payment of tax on filing of return.	181.13	Board of Review established.
181.071	Collection at source.	181.131	Duty to approve regulations and to hear appeals.
181.072	Declarations of income not collected at source.	181.132	Right of appeal.
181.073	Filing of declaration.	181.14	Declaration of legislative intent.
181.074	Form of declaration.	181.141	Collection of tax after termination of chapter.
181.075	Payment to accompany declaration.		
181.076	Annual return.		
181.08	Interest on unpaid tax.		
181.081	Penalties on unpaid tax.		
181.082	Exceptions.		
181.083	Abatement of interest and penalty.		
181.084	Violations.		
181.085	Limitation on prosecution.		
181.086	Failure to procure forms not excuse.		

181.01 PURPOSE OF LEVY OF INCOME TAX.

To provide funds for the purposes of general municipal functions of the City of Brooklyn there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensations, and on net profits as hereinafter provided.
(Ord. 2001-36. Passed 9-10-01.)

181.02 DEFINITIONS.

For the purposes of this chapter the terms, phrases, words and their derivatives shall have the meanings given in the next succeeding sections of this chapter. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

- (a) AAdministrator@ means the individual designated to administer and enforce the provisions of the City of Brooklyn Income Tax.
- (b) AAssociation@ means any partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
- (c) ABoard of Review@ means the Board created and constituted as provided in Section 181.13.
- (d) ABusiness@ means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including however all non-profit corporations which are exempt from the payment of Federal Income Tax.
- (e) ACorporation@ means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (f) AEmployee@ means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (g) AEmployer@ means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other basis of compensation.
- (h) AFiscal Year@ means an accounting period of twelve (12) months or less ending on any day other than December 31.
- (i) AFundamental change@ means any substantial alteration of an employer's business, including, without limitation, any liquidation, dissolution, bankruptcy or reorganization, such as merger, consolidation, acquisition, or transfer, or other change in identity, form or organization.
- (j) AGross Receipts@ means the total income from any source whatsoever.
- (k) AManager@ means any of the employer's directors, officers, partners or other persons having control or supervision of the employer's business, and/or employees or other persons charged with the responsibility of filing the return, paying taxes, or otherwise complying with this chapter.
- (l) ANet Profits@ means a net gain from the operation of a business, profession, enterprise, or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes without deduction of taxes imposed by this chapter, federal, state, and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners.

- (m) ANon-Resident@ means an individual domiciled outside the City of Brooklyn.
- (n) ANon-Resident Unincorporated Business Entity@ means an unincorporated business entity not having an office or place of business within the City of Brooklyn.
- (o) APerson@ means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (p) APlace of Business@ means any bona fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (q) AResident@ means an individual domiciled in or whose usual place of abode is in the City of Brooklyn.
- (r) AResident Unincorporated Business Entity@ means an unincorporated business entity having an office or place of business within the City of Brooklyn.
- (s) ATaxable Income@ means wages, salaries and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (t) ATaxable Year@ means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (u) ATaxpayer@ means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.
(Ord. 2001-36. Passed 9-10-01.)

181.03 RATE AND INCOME TAXABLE.

- (a) An annual tax for the purposes specified in Section 181.01 hereof shall be imposed on and after July 1, 1981 at the rate of the two percent (2%) per annum upon the following:
 - (1) On all salaries, wages, commissions and other compensation earned on and after July 1, 1981, by residents of the City of Brooklyn.
 - (2) On all salaries, wages, commissions and other compensation earned on and after July 1, 1981, by non-residents of the City of Brooklyn for work done or services performed or rendered within the City of Brooklyn.
 - A. 12 - Day Occasional Entry Rule. A non-resident individual who works in Brooklyn 12 or fewer days per year shall be considered an occasional entrant and shall not be subject to Brooklyn 's municipal income tax for those 12 days. For purposes of the 12-day calculation any portion of a day worked in Brooklyn shall be counted as one day worked in Brooklyn. Beginning with the thirteenth day, the employer of said individual shall begin withholding Brooklyn income tax from the remuneration paid by the employer to the individual and shall remit the withheld income tax to Brooklyn. If the individual is self-employed it shall be the responsibility of the individual to remit the appropriate income tax to the City of Brooklyn. If two or more individuals of the same

employer (even if they are independent contractors of that employer) perform work in Brooklyn related to the service for which the employer has been engaged, the individuals shall not be subject to the 12-day occasional entry rule but rather to the withholding rules that apply to one hundred fifty dollars (\$150.00) de minimus amounts. The 12-day occasional entry rules does not apply to entertainers or professional athletes, their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.

- B. \$150.00 De minimus Rule. A non-resident employer, agent of such employer, or other payer not situated in Brooklyn shall not be required to withhold Brooklyn income tax from remuneration paid to employees of the employer until the collective tax liability of the employees initially exceeds one hundred fifty dollars (\$150.00). Independent contractors of a non-resident employer shall be deemed employees for work performed in Brooklyn on behalf of the employer and are subject to the collective tax liability provision as if they were employees and are not excluded from taxation. When the collective tax liability exceeds one hundred fifty dollars (\$150.00) the employer is required to begin withholding the appropriate income tax for Brooklyn on behalf of all employees performing work in Brooklyn. Once the collective tax liability has exceeded one hundred fifty dollars (\$150.00) the employer must withhold income tax for Brooklyn for the remainder of that calendar year and for subsequent years, even if the liability in subsequent years does not exceed one hundred fifty dollars (\$150.00). However, if the tax liability for each of the three consecutive years (subsequent to that year in which the employer became liable for withholding the income tax) does not exceed one hundred fifty dollars (\$150.00), the employer will be considered as not having performed work in Brooklyn in regard to further tax liability, and will again be subject to the original rule provisions.

- (3) A. On the portion attributable to the City of Brooklyn on the net profits earned on and after July 1, 1981, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Brooklyn.
- B. On the portion of the distributive share of the net profits earned on and after July 1, 1981, of a resident partner or owner of a resident unincorporated business entity not attributable to the City of Brooklyn and not levied against such unincorporated business entity.
- (4) A. On the portion attributable to the City of Brooklyn of the net profits earned on or after July 1, 1981, of all non-resident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the City of Brooklyn, whether or not such unincorporated business entity has an office or place of business in the City of Brooklyn.

- B. On the portion of the distributive share of the net profits earned on or after July 1, 1981, of a resident partner or owner of a unincorporated business entity not attributable to the City of Brooklyn and not levied against such unincorporated business entity.
- (5) On the portion attributable to the City of Brooklyn on the net profits earned on and after July 1, 1981, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Brooklyn, whether or not such corporations have an office or place of business in the City of Brooklyn.
(Ord. 2001-36. Passed 9-10-01.)

181.031 EFFECTIVE PERIOD.

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after July 1, 1981.
(Ord. 2001-36. Passed 9-10-01.)

181.04 METHOD OF DETERMINATION.

In the taxation of income which is subject to City of Brooklyn Income Taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City of Brooklyn shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City of Brooklyn, then only such portion shall be considered as having a taxable situs in the City of Brooklyn for the purposes of municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City of Brooklyn, in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll, and sales, each of which shall be given equal weight, as follows:

- (a) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City of Brooklyn during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
- (b) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City of Brooklyn to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City of Brooklyn to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

(Ord. 2001-36. Passed 9-10-01.)

181.041 SALES MADE IN THE CITY.

As used in Section 181.04, "sales made in the City of Brooklyn" mean:

- (a) All sales of tangible personal property which is delivered within the City of Brooklyn regardless of where title passes if shipped or delivered from a stock of goods within the City of Brooklyn.
- (b) All sales of tangible personal property which is delivered within the City of Brooklyn regardless of where title passes even though transported from a point outside the City of Brooklyn if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Brooklyn and the sales result from such solicitation or promotion.
- (c) All sales of tangible personal property which is shipped from a place within the City of Brooklyn to purchasers outside of the City of Brooklyn regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
(Ord. 2001-36. Passed 9-10-01.)

181.042 TOTAL ALLOCATION.

(a) Add together the percentages determined in accordance with paragraphs (a), (b), and (c) of Section 181.04 or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving said total in order to obtain the business allocation percentages referred to in Section 181.04.

(b) A factor is applicable even though it may be allocable entirely in or outside the City of Brooklyn. (Ord. 2001-36. Passed 9-10-01.)

181.043 RENTALS.

(a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under paragraphs (a)(3), (4) and (5) of Section 181.03, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived (whether so rented, managed or operated by a taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

(b) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred twenty-five dollars (\$125.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred twenty-five dollars (\$125.00) per month, provided further that in the case of farm property, the owner shall be considered engaged in the business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds said one hundred twenty-five dollars (\$125.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month.
(Ord. 2001-36. Passed 9-10-01.)

181.044 OPERATING LOSS CARRY FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1967, allocable to the City of Brooklyn may be applied against the portion of the profit of succeeding tax years allocable to the City of Brooklyn, until exhausted but in no event for more than five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated to the City of Brooklyn in the same manner as provided herein for allocating net profits to the City of Brooklyn.

(c) The Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.
(Ord. 2001-36. Passed 9-10-01.)

181.045 EMPLOYEE BUSINESS EXPENSES.

If a taxpayer's taxable income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on Internal Revenue Service Form 2106, such expenses shall be deducted from the taxpayer's taxable income to the extent that they are attributable to the income taxed under this chapter. Any portion of 2106 expenses taxed in another locality shall be applied accordingly.
(Ord. 2001-36. Passed 9-10-01.)

181.05 SOURCES OF INCOME NOT TAXED.

The tax provided for herein shall not be levied on the following:

- (a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
- (b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or Federal government, or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of the death of the insured, pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (d) Receipts from seasonal or causal entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.
- (e) Alimony received.
- (f) Personal earnings of any natural person under eighteen (18) years of age.
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (h) Interest, dividends and other revenue from intangible property.
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

- (j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the States or their political subdivisions to impose net income taxes in income derived from interstate commerce.
- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City of Brooklyn to impose net income taxes.
- (l) Employer paid tuition paid on behalf of an employee participating in a course of education, provided that the employee was not entitled to choose between participating in the course of education or receiving as compensation an amount equal to the amount otherwise paid by the employer as tuition for participation in such a course of education.
(Ord. 2001-36. Passed 9-10-01.)

181.06 WHEN RETURN REQUIRED TO BE MADE.

Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period. The administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation. If any employer which is required to file a return and pay a tax under this chapter undergoes a fundamental change with the effect that such employer is, or will be, no longer subject to this chapter, a final tax return for such employer shall be filed by the employer within thirty (30) days after the date of the fundamental change. If any taxpayer required to file a return under this chapter fails to file such return within the time period provided in this section, such taxpayer shall be assessed a penalty of twenty-five dollars (\$25.00) for the late filing of such a return. Each manager shall be personally liable to the extent of the penalty, jointly and severally, with the employer for failure to file the employer's return within the time period provided for in this section. No fundamental change shall discharge any manager or employer for failure to file such employer's return within the time period provided for in this section.
(Ord. 2001-36. Passed 9-10-01.)

181.061 FORM AND CONTENT OF RETURN.

The return shall be filed with the administrator on a form or forms furnished by or obtainable upon request from such administrator. The City of Brooklyn accepts generic forms. However, to be acceptable the generic form must contain all the information required on forms supplied by the City of Brooklyn and must be in a similar format that will allow processing of the generic forms without changing Brooklyn's procedures for processing forms. Determination as to whether a generic form meets the above criteria shall be the responsibility of the Brooklyn Tax Administrator. All returns shall set forth the following information:

- (a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax.
 - (b) The amount of the tax imposed by this chapter on such earnings and profits, and
 - (c) Such other pertinent statements, information returns, or other information as the administrator may require.
- (Ord. 2001-36. Passed 9-10-01.)

181.062 EXTENSION OF TIME FOR FILING RETURNS.

The Administrator may extend the time for filing of the annual return upon the written request of the taxpayer or receipt of copy of federal extension for a period not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return if such request for extension of the time for such filing is filed with the administrator no later than the latest date which on a return is otherwise due to be filed under Section 181.06 hereof exclusive of any extensions provided for in this section. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(Ord. 2001-36. Passed 9-10-01.)

181.063 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by the Administrator.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory, or activity within the City of Brooklyn constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City of Brooklyn. If the Administrator finds that net profits are not properly allocated to the City of Brooklyn by reason of transactions with stockholders or with other corporation related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory, or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City of Brooklyn.

(Ord. 2001-36. Passed 9-10-01.)

181.064 AMENDED RETURNS.

(a) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Section 181.09, 181.091, 181.092 and Section 181.10 hereof. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's City of Brooklyn return showing income subject to the City of Brooklyn tax liability, such tax payer shall make and file an amended City of Brooklyn tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.
(Ord. 2001-36. Passed 9-10-01.)

181.07 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 181.071 hereof, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.072 hereof, or where an income tax has been paid on the same income to another municipality, credit for the amount so paid in accordance with Section 181.10 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

(b) A taxpayer who has overpaid the amount of tax to which the City of Brooklyn is entitled under the provisions of this chapter may have such over payment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(c) Each manager shall be jointly and severally personally liable to the City of Brooklyn to the extent of the amount of tax due, plus interest and penalty, if any, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter. No change in structure by an employer, including a fundamental change, discharges each of its managers from the joint and several personal liability of this subsection for the employer's or manager's failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.
(Ord. 2001-36. Passed 9-10-01.)

181.071 COLLECTION AT SOURCE.

(a) In accordance with Rules and Regulations prescribed by the Administrator, each employer within or doing business within the City of Brooklyn shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of two percent (2%) per annum of the gross salaries, wages, commission or other compensation due by the said employer to said employee and shall, on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted, subject to the provisions hereof. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) Such employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to the City of Brooklyn, as a Trustee for the benefit of the City of Brooklyn and any such tax collected by such. employer from his employees, shall, until the same is paid to the City of Brooklyn be deemed a trust fund in the hands of such employer.

(c) Such employer who deducts the tax in the amount of four hundred dollars (\$400.00) or more in the first or second month of a calendar quarter shall, on or before the last day of the following month, pay to the Administrator the amount of taxes so deducted.

(d) Such employer who makes such payments on a monthly basis for the first two months of a calendar quarter shall pay such tax deducted for the third month of a calendar quarter at the regular time for filing the employer's return of income tax withheld.

(e) Said payments shall be on a form or forms furnished by, obtainable upon request, or on a generic form acceptable to the Administrator setting forth the amount of tax deducted for the specified period and shall be subject to the Rules and Regulations prescribed therefor by the Administrator.

(f) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City of Brooklyn but such employee shall be subject to all of the requirements of this chapter.

(g) Each manager shall be deemed to be a trustee for the benefit of the City of Brooklyn in collecting and holding the tax required under subsection (a) hereof to be withheld, and the funds so collected by such withholding shall be deemed to be trust funds held for the benefit of the City of Brooklyn. Each manager shall be jointly and severally personally liable to the City of Brooklyn, to the extent of the amount of tax withheld or to have been withheld, plus interest and penalty, if any, for payment of such trust funds, whether or not such funds were actually collected by such employer or manager. Any tax so deducted and withheld is to be considered paid to the City of Brooklyn for purposes of determining employee payments or credits, whether or not such employer or manager actually remits such tax to the City of Brooklyn. No change in structure by an employer, including a fundamental change, discharges each of its managers from the joint and several personal liability of this subsection (g) for the employer's or manager's failure to remit such trust funds to the City of Brooklyn.

(h) Payment of any tax due under this Section 181.071 shall be deemed made within the time prescribed hereunder if made no later than three (3) days after the last day prescribed hereunder for such payment.

(i) 12 - Day Occasional Entry Rule. A non-resident individual who works in Brooklyn 12 or fewer days per year shall be considered an occasional entrant and shall not be subject to Brooklyn's municipal income tax for those 12 days. For purposes of the 12-day calculation any portion of a day worked in Brooklyn shall be counted as one day worked in Brooklyn. Beginning with the thirteenth day, the employer of said individual shall begin withholding Brooklyn income tax from the remuneration paid by the employer to the individual and shall remit the withheld income tax to Brooklyn. If the individual is self-employed it shall be the responsibility of the individual to remit the appropriate income tax to the City of Brooklyn. If two or more individuals of the same employer (even if they are independent contractors of that employer) perform work in Brooklyn related to the service for which the employer has been engaged, the individuals shall not be subject to the 12-day occasional entry rule but rather to the withholding rules that apply to one hundred fifty dollar (\$150.00) de minimis amounts. The 12-day occasional entry rule does not apply to entertainers or professional athletes, their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.

(j) \$150.00 Deminimus Rule. A non-resident employer, agent of such employer, or other payer not situated in Brooklyn shall not be required to withhold Brooklyn income tax from remuneration paid to employees of the employer until the collective tax liability of the employees initially exceeds one hundred fifty dollars (\$150.00). Independent contractors of a nonresident employer shall be deemed employees for work performed in Brooklyn on behalf of the employer and are subject to the collective tax liability provision as if they were employees and are not excluded from taxation. When the collective tax liability exceeds one hundred fifty dollars (\$150.00) the employer is required to begin withholding the appropriate income tax for Brooklyn on behalf of all employees performing work in Brooklyn. Once the collective tax liability has exceeded one hundred fifty dollars (\$150.00) the employer must withhold income tax for Brooklyn for the remainder of that calendar year and for subsequent years, even if the liability in subsequent years does not exceed one hundred fifty dollars (\$150.00). However, if the tax liability for each of the three consecutive years (subsequent to that year in which the employer became liable for withholding the income tax) does not exceed one hundred fifty dollars (\$150.00), the employer will be considered as not having performed work in Brooklyn in regard to further tax liability, and will again be subject to the original rule provisions.

(Ord. 2001-36. Passed 9-10-01.)

181.072 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

Every person who anticipates any taxable income which is not subject to Section 181.071 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 hereof shall file a declaration setting forth such estimated income or the estimated tax due thereon, if any, provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the City of Brooklyn in accordance with Section 181.071 hereof, such person need not file a declaration. If the estimated tax for the current year, less the tax to be withheld and less credit provided for in Section 181.10 hereof, is less than one hundred dollars (\$100.00), no declaration of payment of estimated tax is required.

(Ord. 2001-36. Passed 9-10-01.)

181.073 FILING OF DECLARATION.

(a) The declaration required by Section 181.072 above shall be filed on or before April 30 of each year during the effective period set forth in Section 181.031 or within four (4) months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the beginning of each fiscal year or period.

(c) The Administrator may extend the time for filing any declaration required under this Section 181.073, making any payment accompanying such declaration required under Section 181.075 of this chapter, or performing any other act, which is required by the provisions of Section 181.072 through Section 181.076, inclusive, for a period of not to exceed six (6) months beyond the original required date upon the request of the taxpayer, if such request is filed no later than the latest date on which such filing, such payment or such other action may be done or made.

(Ord. 2001-36. Passed 9-10-01.)

181.074 FORM OF DECLARATION.

(a) The declaration required by Section 181.072 shall be filed upon a form furnished by, obtainable from, or on a generic form acceptable to the Administrator, provided, however, credit shall be taken for City of Brooklyn tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.10 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

(b) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(c) Each person engaged in any transient business, profession, enterprise or activity subject to the tax imposed by Section 181.03 may be required to immediately file a declaration of estimated income and pay the estimated tax due thereon prior to the issuance of any permits or licenses by the City of Brooklyn or the execution of any rental agreement for the use of property of the City of Brooklyn for an event that will give rise to income subject to the tax imposed by Section 181.03.

(Ord. 2001-36. Passed 9-10-01.)

181.075 PAYMENT TO ACCOMPANY DECLARATION.

Such declaration of estimated tax to be paid to the City of Brooklyn shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth months after the beginning of the taxable year; provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates applicable to the payment of such estimated tax.

(Ord. 2001-36. Passed 9-10-01.)

171.076 ANNUAL RETURN.

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed in accordance with the provisions of Section 181.06 hereof, and any balance which may be due the City of Brooklyn shall be paid therewith in accordance with the provisions of Section 181.07 hereof. However, any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time, in lieu of filing a declaration or amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(Ord. 2001-36. Passed 9-10-01.)

181.08 INTEREST ON UNPAID TAX.

If any amount of the tax imposed by this chapter, including all taxes withheld or required to be withheld by employers and all installments of estimated taxes required to be paid, is not paid on or before the last date prescribed for payment, interest in the amount of two percent (2%) per month or fraction thereof shall immediately become due on such amount.

(Ord. 2001-36. Passed 9-10-01.)

181.081 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 181.08 hereof, penalties based on the unpaid tax are hereby imposed as follows:

- (a) For failure to pay taxes due on or before the last date prescribed in this chapter for payment -- other than taxes withheld; two percent (2%) per month or fraction thereof or thirty-five dollars (\$35.00), whichever is greater, not to exceed fifty percent (50%) of the amount of taxes not paid.
- (b) For failure to remit taxes withheld from employees on or before the last date prescribed in this chapter for payment; four percent (4%) per month or fraction thereof, not to exceed fifty percent (50%) of the amount of taxes not remitted.
- (c) If the sum of the amounts of quarterly installment payments made for the current tax year totals less than eighty (80%) of the amount of tax due for such year, as shown by the annual return, a penalty of twenty-five dollars (\$25.00) shall be assessed; provided, however, that no such penalty shall be assessed if the amount of quarterly installment payments made for such current tax year is equal to or greater than amount of the tax due for the immediately preceding tax year.
(Ord. 2001-36. Passed 9-10-01.)

181.082 EXCEPTIONS.

A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereof within the time prescribed by the Administrator; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after a final determination of the federal tax liability.

(Ord. 2001-36. Passed 9-10-01.)

181.083 ABATEMENT OF INTEREST AND PENALTY.

Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown.

(Ord. 2001-36. Passed 9-10-01.)

181.084 VIOLATIONS.

Any person who shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (b) Make any incomplete, false or fraudulent return; or
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter, or
- (d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (e) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers, and federal income tax returns relating to the income or net profits of a taxpayer; or
- (f) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or

- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (i) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City of Brooklyn tax withheld, or to knowingly give the Administrator false information; or
- (k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter;

shall be guilty of a first degree misdemeanor and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six (6) months or both, for each offense.
(Ord. 2001-36. Passed 9-10-01.)

181.085 LIMITATION ON PROSECUTION.

All prosecutions for violations of any of the provisions of this chapter shall be commenced within the time period provided for by the general laws of the State of Ohio.
(Ord. 2001-36. Passed 9-10-01.)

181.086 FAILURE TO PROCURE FORMS NOT EXCUSE.

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.
(Ord. 2001-36. Passed 9-10-01.)

181.09 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Civil actions to recover such taxes and penalties and interest on such taxes shall be brought within the time period provided for by the general laws of the State of Ohio. Except in the case of fraud, or omission of a substantial portion of income subject of this tax, or of failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed, whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one (1) year from the time of the final determination of the federal tax liability.
(Ord. 2001-36. Passed 9-10-01.)

181.091 REFUND TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after the final determination of the federal tax liability, whichever is later.
(Ord. 2001-36. Passed 9-10-01.)

191.092 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$1.00), shall not be collected or refunded.
(Ord. 2001-36. Passed 9-10-01.)

181.10 BROOKLYN RESIDENT SUBJECT TO INCOME TAX IN OTHER MUNICIPALITY.

A resident of Brooklyn who is required to and does pay, or has acknowledged liability for, a municipal tax on or measured by income, to another municipality upon the same income taxable under this chapter, may claim a credit of the amount of tax paid by him or on his behalf to such other municipality but not in excess of the tax assessed by this chapter on such income; provided, however, that a resident of Brooklyn shall not be entitled to such credit in the event he shall fail, neglect or refuse to timely file a return or form as is prescribed by the Administrator and required by this chapter.

(Ord. 2001-36. Passed 9-10-01.)

181.11 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter of the City of Brooklyn shall be disbursed in the following manner:

- (a) First, such part thereof as shall be necessary to defray all expense of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
- (b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for municipal purposes.

(Ord. 2001-36. Passed 9-10-01.)

181.12 DUTY TO RECEIVE TAX IMPOSED.

It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof, and to report all moneys so received; provided, however, that nothing in this Section 181.12 or elsewhere in this chapter shall be construed to prohibit the designation and use by the Administrator of public depository, as defined in Chapter 135 of the Ohio Revised Code, to receive on behalf of the Administrator and the City of Brooklyn, and to deposit to an account of the City of Brooklyn established therefor with such public depository, the tax, including any penalties and interest thereon, imposed by this chapter.

(Ord. 2001-36. Passed 9-10-01.)

181.121 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to the City of Brooklyn, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file declaration and make any return, or both, including taxes withheld, and to show the dates and amounts of payment thereof.

(Ord. 2001-36. Passed 9-10-01.)

181.122 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

Said Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

(Ord. 2001-36. Passed 9-10-01.)

181.123 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

(a) The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

(b) Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 181.09 and 181.084 of this chapter shall apply.
(Ord. 2001-36. Passed 9-10-01.)

181.124 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the City of Brooklyn from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. (Ord. 2001-36. Passed 9-10-01.)

181.125 AUTHORITY TO MAKE INVESTIGATIONS.

The Administrator, or any employee of the City of Brooklyn designated in writing by the Administrator, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or such duly designated employee of the City of Brooklyn, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(Ord. 2001-36. Passed 9-10-01.)

181.126 AUTHORITY TO COMPEL PRODUCTION OF RECORDS.

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(Ord. 2001-36. Passed 9-10-01.)

181.127 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with provisions of this chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.084 hereof.

(Ord. 2001-36. Passed 9-10-01.)

181.128 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

(a) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section, shall, upon conviction thereof, be deemed guilty of a first degree misdemeanor and shall be subject to a fine or penalty of not more than one thousand dollars (\$1,000) or imprisoned for not more than six (6) months or both. Each disclosure shall constitute a separate offense.

(b) In addition to the above penalty, any employee of the City of Brooklyn who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
(Ord. 2001-36. Passed 9-10-01.)

181.129 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the withholding taxes are paid.
(Ord. 2001-36. Passed 9-10-01.)

181.1210 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The Administrator may and he is authorized hereby to enter into an agreement on behalf of the City of Brooklyn with any other municipal corporation for the purpose of administering the income tax laws of such other municipal corporation as its agent and of providing a central collection facility for the collection of the income tax on behalf of such other municipal corporation.
(Ord. 2001-36. Passed 9-10-01.)

181.13 BOARD OF REVIEW ESTABLISHED.

A Board of Review, consisting of the Director of Finance, or a person designed by him, the Director of Law, or an Assistant Director of Law designated by him, and the Mayor, or a person designated by him, is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. A Majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 181.128 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.
(Ord. 2001-36. Passed 9-10-01.)

181.131 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.

All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.
(Ord. 2001-36. Passed 9-10-01.)

181.132 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(Ord. 2001-36. Passed 9-10-01.)

181.14 DECLARATION OF LEGISLATIVE INTENT.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the Council of the City of Brooklyn that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 2001-36. Passed 9-10-01.)

181.141 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of tax so levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 181.09, 181.091, 181.092, 181.084, 181.085 and 181.086 hereof.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 181.06 and 181.071 of this chapter as though same were continuing.

(Ord. 2001-36. Passed 9-10-01.)